

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**STRATTON PEAY,**

**Plaintiff,**

**v.**

**CO SAGER, et al,**

**Defendants.**

**Case No. 1:16-CV-130**

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on June 6, 2016. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff's Third Amended Complaint was filed on April 24, 2018. *See* ECF No. 83. Plaintiff, an inmate acting pro se, alleges that prison officials at SCI-Forest violated his civil rights by engaging in a conspiracy to unlawfully confine and harass him and by subjecting him to unlawful retaliation for filing a previous lawsuit. Plaintiff explains that he was falsely convicted of murder over twenty years ago after he was framed by Detective Leon Lubiejewski (who is not a party to this action). Plaintiff alleges that Defendants have engaged in a widespread conspiracy to cover-up Detective Lubiejewski's misconduct and to keep Plaintiff wrongfully imprisoned for two decades. Plaintiff also claims that prison officials acted with deliberate indifference to a serious injury to his left mastoid bone.

Defendants filed a motion for summary judgment, along with a brief in support, a concise statement of material facts, and an appendix. ECF Nos. 208 – 211. In opposition, Plaintiff made several filings. ECF Nos. 213 – 218.

On February 1, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the pending motion for summary judgment be granted and judgment be entered in favor of all Defendants. ECF No. 219. Plaintiff filed lengthy Objections [ECF No. 220] and Defendants filed a Reply to those Objections [ECF No. 221].

“If a party objects timely to a magistrate judge's report and recommendation, the district court must ‘make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” *EEOC v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) *quoting* 28 U.S.C. § 636(b)(1). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2). Upon *de novo* review, the Court finds no error in Magistrate Judge Lanzillo’s Report and Recommendation as Plaintiff’s Objections are a reiteration of his opposition to the summary judgment motion.<sup>1</sup>

After *de novo* review of the complaint and documents in the case, together with the report and recommendation and objections thereto, the following order is entered:

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<sup>1</sup> However, this Court must speak to Plaintiff’s repeated contention that Magistrate Judge Lanzillo “lied” throughout the Report and Recommendation. Plaintiff accuses Judge Lanzillo of lying about Plaintiff’s failure to file a responsive concise statement in opposition to the motion for summary judgment. However, a review of the docket reveals no responsive concise statement filed by Plaintiff. While Plaintiff has filed an extensive brief in opposition to Defendants’ motion for summary judgment [at ECF No. 213], no responsive concise statement accompanied it. Regardless, no recommendation of Judge Lanzillo is based solely on Plaintiff’s failure to file the statement.

AND NOW, this 23rd day of February 2022;

IT IS ORDERED that the motion for summary judgment [ECF No. 208] is granted.

IT IS FURTHER ORDERED that final judgment is entered in favor of Defendants and against Plaintiff pursuant to Fed.R.Civ.P. 58.

AND, IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on February 1, 2022 [ECF No. 219] is adopted as the opinion of the court.

  
/s/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
United States District Judge